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Paper No. 5

LINDA MILOR
1730 HIGHLAND PLACE #1
BERKELEY CA 94709

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OCT 22 2004

OFFICE OF PETITIONS

In re Application of	:	
Orshansky, et al.	:	
Application No. 09/733,411	:	ON PETITION
Filed: December 11, 2000	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 22, 2004, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

This application became abandoned for failure to timely reply to the Office action mailed September 23, 2002. The Office action set a one (1) month period to reply. Accordingly, this application became abandoned on October 24, 2002. A Notice of Abandonment was mailed on May 7, 2003.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed.
- In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an

application, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (2) above.

The required petition fee as set forth in 37 CFR 1.17(m) has not been submitted. As such, the petition may not be reviewed on the merits at this time.

Please note, if petitioner wishes to assert non-receipt of an Office action, petitioner should submit a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No fee is required with a petition under 37 CFR 1.181. A petition under 37 CFR 1.181 to withdraw the holding of abandonment should be submitted to Technology Center 2800 and not the Office of Petitions.

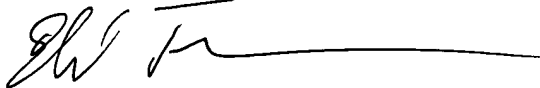
Further correspondence with respect to the instant petition under 37 CFR 1.137(b) should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 Box 1450
 Alexandria, VA 22313

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at
(571) 272-3228.

A handwritten signature in dark ink, appearing to read 'EJ Tannouse', followed by a long horizontal line extending to the right.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office